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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,115	06/14/2001	Takamasa Suzuki	209519US2	6648
22850	7590	08/02/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			KADING, JOSHUA A	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			2661	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/880,115

Applicant(s)

SUZUKI ET AL.

Examiner

Joshua Kading

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 2, 4, 8, 9 and 11 is/are rejected.  
7) ☒ Claim(s) 3, 5-7, 10 and 12-14 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/14/01, 8/19/03  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4, 8, 9, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,577,641 B1, Izumi.

Regarding claims 1 and 8, Izumi discloses, "a dynamic bandwidth assignment system (*Fig. 5 @ 10, communication unit*) including a network unit (*Fig. 5 @ 13, control unit*) configured to carry out cell slot assignment (*col. 6, lines 18-25, received information processing section*), and a network termination (*Fig. 5 @ 12, receiving unit*) configured to transmit cells to the network unit by cell slots assigned by the network unit (*col. 6, lines 21-22, which receives incoming information*), said network unit comprising;

a detection unit (*Fig. 5 @ 15, allocation means*) configured to detect valid cells and idle cells said network unit receives from said network termination unit (*col. 5, lines 64-67 show the use of empty cells and valid cells used as described in col. 6, lines 26-29, the time slots are allocated depending on the amount of information to be process whereby receiving these allocated cells means they are also detected*);

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a decision unit (*Fig. 1, col. 6, lines 29-31, the control unit includes a means for determining the amount*) configured to output a decision result on a cell slot assignment to the network termination unit based on the detection results by said detection unit (*col. 6, lines 29-31, a means for determining the amount of information to be transmitted*); and

a cell slot assignment unit (*Fig. 1@ 15, this section also processes by allocation means*) configured to control the cell slot assignment to the network termination unit in response to the decision result of said decision unit (*col. 6, lines 32-38, the allocation means 15 of the control unit 13 allocates the time slots and provides a transmission means 14*)."

Regarding claims 2, 4, 9, and 11, Izumi discloses, "wherein said decision unit (*Fig. 1, col. 6, lines 29-31, the control unit includes a means for determining the amount*) is configured to supply the decision result to said cell slot assignment unit (*Fig. 5 @ 15, allocation means*) when a number of consecutive valid cells (*Fig. 1, frame F7*) said network unit (*Fig. 5 @ 13, control unit*) receives from said network termination unit (*Fig. 5 @ 12, receiving unit*) exceeds a first predetermined threshold value, and wherein said cell slot assignment unit (*Fig. 5 @ 15, allocation means*) is configured to increase the number of the cell slots to be assigned to said network termination unit (*Fig. 5 @ 12, receiving unit*) in response to the decision result (*col. 4, lines 19-23, the threshold for a predetermined time frame holds eight time slots or depend upon the case it is used; col.*

*5, lines 10-12, additional time slots added to the frame depending on the amount of information to be transmitted)."*

***Allowable Subject Matter***

3. Claims 3, 5, 6, 7, 10, 12, 13, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments filed 16 May 2005 have been fully considered but they are not persuasive.

Applicant makes the following arguments:

1) Izumi does not teach a "detection unit configured to detect valid cells and idle cells said network unit receives from said network termination unit."

2) Claim 1 relates to an ATM-PON and since Izumi does not, Izumi cannot read on the claimed invention.

3) Izumi does not teach a "decision unit configured to output a decision on cell slot assignment to the network termination unit based on the detection result by said detection unit."

The examiner respectfully disagrees for the following reasons:

1) Izumi, col. 5, lines 64-67 and col. 6, lines 7-10 fully account for applicant's newly added limitation of idle cells. And as noted in the rejection, the valid cells and idle cells must be detected on the receiving end so as to reconstitute the sent data.

2) No claim recites any limitation concerning an ATM-PON. It would be inappropriate to read this limitation into the claims when it is not explicitly recited in the claims.

3) Izumi, col. 6, lines 26-29 and 32-38 fully account for the decision unit and cell assignments. The results of which can be seen in figures 1-3.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

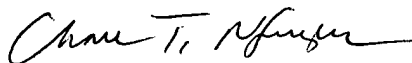
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joshua Kading  
Examiner  
Art Unit 2661

July 28, 2005



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
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